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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/589,613

08/16/2006

Venura C. Mendis

36-1999

8658

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7590

09/04/2009

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EXAMINER

NUNEZ, JORDANY

ART UNIT

PAPER NUMBER

2175

MAIL DATE

DELIVERY MODE

09/04/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/589,613	<b>Applicant(s)</b> MENDIS ET AL.	
	<b>Examiner</b> Jordany Núñez	<b>Art Unit</b> 2175	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>Attached</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-21 and 23-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Madrane (6573907).

Re claim 1, Madrane discloses a data handling device comprising a display (column 2 lines 1-2 for example) for displaying representations of the media objects (see abstract, root images for example), data storage means (see column 20 lines 24-26 for example) for allocating metadata tags (see column 13 line 66 to column 14 line 1, information designating these objects as “extractable” for example) to the media objects, an input device (interface viewer unit for example) comprising means to allow (e.g., not prevent) a representation of a selected media object (e.g., area of interest) to be selectively moved by a user into a region of the display (e.g., the area of interest is moved until it takes up the whole display, when moving up close) representing a selected set of metadata tags (e.g., when moving up close, the display represents the area of interest, which includes metadata tags) (see figures 17-18; col. 12, l. 57 to col. 13, l. 15), and user activated means for causing the selected set of metadata tags to be added to those

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allocated to the selected media object in the data storage means (see column 13 line 66 to column 14 line 3; column 30, l. 5-17) (e.g., a designer may designate an area of interest of an image to be extractable, and to be bounded and associated with a URL).

Re claim 2, Madrane discloses a data handling device, configured to allow a user to generate additional metadata tags (see column 15, lines 18-20, additional text for example) having new values, such that the media objects may be further categorized.

Re claim 3, Madrane discloses a data handling device, configured to allow a user to obtain a view of media objects to which one or more of a predetermined plurality of metadata tags have been added (see figure 43 for example).

Re claim 4, Madrane discloses a data handling device, configured to allow a user to obtain a view of media objects to which each of a predetermined plurality of metadata tags have been added (see figure 35 for example).

Re claim 5, Madrane discloses a data handling device, wherein means are provided to provide user control of the maximum number of metadata tag sets to be displayed (define how many, see column 7 line 27 for example).

Re claim 6, Madrane discloses a data handling device, in which representations of the media objects are capable of being moved between regions of the display area representing sets of metadata tags having pre-defined values (identify which are "hot objects", see column 7 lines 30-31 for example).

Re claim 7, Madrane discloses a data handling device, comprising means for removing a representation of a selected media object from one display area and adding it to a second area, thereby applying the metadata tag set associated with the second area to the selected media

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object in place of the set of metadata tags associated with the first area (see column 7 lines 30-33 for example).

Re claim 8, Madrane discloses a data handling device wherein a representation of a media object selected from a display area associated with a first metadata tag set applied to the media object may remain there whilst a copy of the selected media object is placed in a second area of the display area, thereby applying the metadata tag set associated with the second area to the media object in addition to the set associated with the first area (see column 20 lines 45-50 for example).

Re claim 9, Madrane discloses a data handling device, providing means for indicating the number of media objects associated with a given set of metadata tags (column 7 lines 25-31 for example).

Re claim 10, Madrane discloses a data handling device, providing means for indicating the number of metadata tags associated with one or more media objects (define how many...what image information, see column 7 lines 25-37 for example).

Re claim 11, Madrane discloses a data handling device, providing means for identifying media objects to which no metadata tags have been applied by providing a display area representing an empty set (identify which objects in the scene are "hot objects", see column 7 lines 30-34 for example).

Re claim 12, Madrane discloses a data handling device, providing means for selecting a subset of the media objects for allocating a given set of metadata tags ("hot objects" and what image information will be displayed, see column 7 lines 30-34 for example).

Re claim 13, Madrane discloses a data handling device, providing means for making the size of the display area allocated to each set of metadata tags proportional to the number of media objects portrayed therein (see column 5 lines 34-40 for example).

Re claim 14, Madrane discloses a computer program or suite of computer programs for use with one or more computers to provide any of the apparatus as set out in claim 1 (see column 2 line 10 for example).

Re claim 15, Madrane discloses a method of organizing and storing media objects for subsequent retrieval, the media objects being represented in a display, wherein in which metadata tags are applied to the media objects by selecting an individual media object from the display, and causing a set of metadata tags to be added to the selected media object by selectively placing a representation of the selected media object in a region of the display selected to represent the set of metadata tags to be added (see column 7 lines 25-35 for example).

Re claim 16, Madrane discloses a method, in which a user may generate additional metadata tags having new values, such that the media objects may be further categorized (see column 15 lines 17-20 for example).

Re claim 17, Madrane discloses a method, wherein a view is provided of media objects to which one or more of a predetermined plurality of metadata tags have been added (see column 15 lines 17-20, see figure 43 for example).

Re claim 18, Madrane discloses a method, wherein a view is provided of media objects to which each of a predetermined plurality of metadata tags have been added (see figure 35 for example).

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Re claim 19, Madrane discloses a method, wherein provision is made to control the maximum number of categories to be displayed (define how many, see column 7 line 27 for example).

Re claim 20, Madrane discloses a method, in which representations of the media objects are moved between regions of the display area representing sets of metadata tags having pre-defined values (see column 7 lines 30-31 for example).

Re claim 21, Madrane discloses a method, wherein a representation of a media object is selected from a first display area associated with a first metadata tag set, and a copy of the selected representation is placed in a second area of the display whilst the original representation remains in the first area, thereby applying the metadata tag set associated with the second area to the media object, in addition to the set associated with the first area (see column 20 lines 45-50 for example).

Re claim 23, Madrane discloses a method, wherein the number of media objects associated with a given set of metadata tags is indicated (see column 7 lines 25-31 for example).

Re claim 24, Madrane discloses a method, wherein the number of metadata tags associated with one or more media objects is indicated (see column 7 lines 25-37 for example).

Re claim 25, Madrane discloses a method, wherein media objects to which no metadata tags have been applied are identified by providing a display area representing an empty set (see column 7 lines 25-37 for example).

Re claim 26, Madrane discloses a method, wherein a subset of the media objects may be selected for allocation of a given set of metadata tags (see column 7 lines 25-35 for example).

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Re claim 27, Madrane discloses a method, wherein the size of the display area allocated to each set of metadata tags is proportional to the number of media objects portrayed therein (see column 5 lines 34-40 for example).

Re claim 28, Madrane discloses a computer program or suite of computer programs for use with one or more computers to provide the method of claim 15 (see column 2 line 10 for example).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Madrane

Re claim 22, Madrane substantially discloses a method as set forth in claim 20 above. Madrane does not explicitly disclose a representation of a selected media object may be removed from a first display area associated with one metadata tag set when added to a second display



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area, thereby applying the set of metadata tags associated with the second display area to the selected media item in place of the set of metadata tags associated with the first display area.

Madrane teaches of applying the set of metadata tags associated with the second display area to the selected media item in place of the set of metadata tags associated with the first display area when added to a second display area. Deleting functions are well known. It would have been an obvious matter of design choice to have a representation of a selected media object may be removed from a first display area associated with one metadata tag set when added to a second display area, since such a modification would have involved the mere application of a known technique to a piece of prior art ready for improvement. Where a claimed improvement on a device or apparatus is no more than "the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement," the claim is unpatentable under 35 U.S.C. 103(a). *Ex Parte Smith*, 83 USPQ2d 1509, 1518-19 (BPAI, 2007) (citing *KSR v. Teleflex*, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007)). Accordingly Applicant claims a combination that only unites old elements with no change in the respective functions of those old elements, and the combination of those elements yields predictable results; absent evidence that the modifications necessary to effect the combination of elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a). *Ex Parte Smith*, 83 USPQ2d at 1518-19 (BPAI, 2007) (citing *KSR*, 127 S.Ct. at 1740, 82 USPQ2d at 1396).

### ***Response to Arguments***

Applicant's arguments have been fully considered but are not persuasive. Examiner reiterates that references to specific columns, figures or lines should not be limiting in any way. The entire reference provides disclosure related to the claimed invention. Applicant argues that:

1) In the present application, "media objects" are more substantial, insofar as they have a real physical existence, albeit typically as computer files or other stored data which can be organized, stored and retrieved. It should be noted that the present specification define the term "media file" in the introduction as distinct from "media object" and defines the term "media object" to embrace both actual media files and metadata objects identifying such files. See, present specification at page 1, lines 27- 30. This definition alone distinguishes Applicant's invention from the type of media object discussed in the prior art reference (page 2, last paragraph).

Examiner disagrees.

Applicant's specification, page 1, lines 27-30, does not define the term media object. Instead, the specification at that location merely states, seemingly contradictorily, that a media object is different from an actual medial file, and also include media files, streams, and pointers into a file or database. Further, one of ordinary skill in the art would agree that the present meaning given to the term "media object" by Examiner is reasonable.

2) The Examiner discusses the "means to allow..., a representation of a selected media object..., to be selectively moved by a user into a region of the display..., representing a selected set of metadata tags..." See, Office Action at page 3. It is apparent from the passages quoted by the Examiner (i.e., cols. 12-13, col. 30; and Figs 17, 18) that the metadata tags move with the objects - the display does not have different regions allotted to different tags or sets of tags, as required by the present claims: "moved by a user into a region of the display representing a selected set of metadata tags." In the prior art, the tag stays with the object however it is moved across the display. Nowhere does Madrane teach adding tags to the object based on where the object is placed in the display. In Applicants' invention, tags are added to objects according to where the objects are placed in the display area (page 3, first paragraph).

Examiner disagrees.

It is not clear to Examiner why metadata tags that "move with the objects" may also not be metadata tags added to a media object based on where the object is placed in the display. For example, Madrane (fig. 7B; col. 13, l. 60 to col. 14, l. 15) teaches a designer designating a video of a person walking from left to right as interesting, and a user clicking on said person walking causing all extraneous portions of the displayed frames to disappear, and the person walking appearing to move from the left side of the screen to the right side of the screen. Thus, clearly, a designer designating the person walking as interesting causes metadata tags to be added to a media object based on where the object is placed in the display (e.g., the video of the person walking is singled out from the rest of the video as said person walking moves from left to right).

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3) The Examiner's comments in this regard seem to miss the point - the tags applied to an individual object in the prior art represent the location of that object in the virtual three-dimensional world represented in the display which may in turn affect how that object is displayed if the view of the display is changed (e.g., objects tagged as distant may be omitted from a zoomed-in image, as they would be off-screen). However, this is not what is claimed. Applicants' claimed invention requires the objects to be tagged according to where the user places them in the display itself- i.e., which "bins" the data file is placed in

Examiner disagrees.

First, Applicant's claims do not mention the word "bin." Second, as already stated, a designer designates an item of interest in a video, with all other non-interesting items of said video disappearing. For example, as acknowledged by Applicant, objects tagged as distant may be omitted from a zoomed-in image, as they would be off-screen. Thus, a user indeed tags objects according to where the user places them in the display itself, for example, in a screen of a zoomed in image, the object of interest would be at the center of the screen, where the designer place it, while other distant objects may be omitted.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action

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is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jordany Núñez whose telephone number is (571)272-2753. The examiner can normally be reached on Monday Through Thursday 9am-7:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Bashore can be reached on (571)272-4088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JN

8/18/2009

/William L. Bashore/

Supervisory Patent Examiner, Art Unit 2175